

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

<b>ABIGAIL PATRICIA WEST,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 3:21-cv-00771</b>
	)	
<b>SYLVIA VANDERBILT et al.,</b>	)	<b>Chief Judge Crenshaw</b>
	)	<b>Magistrate Judge Holmes</b>
<b>Defendants.</b>	)	

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**TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES AND DEBORAH DIAZ'S  
MOTION TO DISMISS THE AMENDED COMPLAINT**

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Defendants, the Tennessee Department of Children's Services (DCS) and Deborah Diaz in her official capacity, move to dismiss the Amended Complaint. The Amended Complaint brings four claims under 42 U.S.C. § 1983. All four are alleged against DCS, and one of them (Claim 4) is alleged against Ms. Diaz. (*See* D.E. 47, at 21–29.)

Pursuant to Fed. R. Civ. P. 12(b)(1) and (5), DCS moves to dismiss the Amended Complaint for lack of subject-matter jurisdiction and insufficient service of process. First, this Court lacks subject-matter jurisdiction over the claims against DCS because they are barred by the Eleventh Amendment to the U.S. Constitution. Second, service upon DCS was insufficient under Fed. R. Civ. P. 4(j)(2).

Pursuant to Fed. R. Civ. P. 12(b)(1) and (6), Ms. Diaz moves to dismiss the Amended Complaint for lack of subject-matter jurisdiction and failure to state a claim upon which relief can be granted. First, this Court lacks subject-matter jurisdiction over the claim against Ms. Diaz (who has been sued in her official capacity only) because it is barred by the Eleventh Amendment. Second, because the Amended Complaint does not particularly allege any facts showing what Ms.

Diaz did to violate Plaintiff's asserted constitutional rights, Plaintiff has failed to state a claim against Ms. Diaz.

In support of their motion, DCS and Ms. Diaz rely on the accompanying memorandum of law.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing Motion has been forwarded by first-class U.S. Mail, postage paid, to:

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*Pro se Plaintiff*

I also certify that a true and exact copy of the foregoing Motion has been forwarded via the District Court's electronic filing system to:

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on this the 11th day of February 2022.

/s/ Jordan K. Crews  
JORDAN K. CREWS  
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